

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

RACE TIRES AMERICA, INC., a Division)
OF SPECIALTY TIRES OF AMERICA, INC.;)
SPECIALTY TIRES OF AMERICA, INC.;)
SPECIALTY TIRES OF AMERICA)
(PENNSYLVANIA), INC.; and SPECIALTY)
TIRES OF AMERICA (TENNESSEE), LLC,)

Plaintiffs,)

v.)

02: 07cv1294

HOOSIER RACING TIRE CORP., and)
DIRT MOTOR SPORTS, INC., d/b/a)
WORLD RACING GROUP,)

Defendants.)

MEMORANDUM ORDER

Presently pending before the Court is the MOTION TO COMPEL PRODUCTION OF ELECTRONICALLY STORED INFORMATION FROM DIRT MOTOR SPORTS, INC., d/b/a WORLD RACING GROUP, with Affidavit in support, filed by Plaintiffs (Document Nos. 47 and 48), the RESPONSE IN OPPOSITION filed by Dirt Motor Sports Inc., d/b/a World Racing Group (Document No. 52), and the REPLY BRIEF filed by Plaintiffs (Document No. 54).

Plaintiffs served their First Request for Production of Documents and Electronically Stored Information (“ESI”) on Defendant Dirt Motor Sports, Inc. d/b/a World Racing Group (“WRG”) on January 22, 2008. On February 28, 2008, DMS served its Response to Plaintiffs’ First Request for Production. However, WRG did not at that time serve any responsive documents or ESI.

On April 15, 2008, after multiple telephone conversations, WRG produced 717 scanned paper documents, but to date has produced no electronic documents. In this motion, Plaintiffs request that the Court enter an order requiring WRG to produce all responsive ESI on or before seven days.

In response, WRG does not dispute that it has an obligation to produce the requested discoverable non-privileged ESI. However, WRG asks the Court for more time to produce its ESI, specifically WRG requests the Court to permit it to produce non-privileged ESI responsive to Plaintiffs' requests on or before May 31, 2008. In support of its request, WRG represents that it has retained an outside vendor, CNP Technologies, LLC to perform the ESI search and production and that as a result of commitments to other clients, CNP Technologies has scheduled to commence searching all of WRG's computers for discoverable ESI during the week of April 28, 2008.

There is some merit in each side's argument. Plaintiffs served their First Request for Production of Documents and ESI on WRG over three months ago. While documents have been produced, it was not until recently that WRG advised Plaintiffs that it had retained an outside vending company to perform the ESI search and production and that the outside vending company would not be commencing its search of all WRG's computers until the week of April 28, 2008.

On the other hand, WRG appears to be at the mercy of an outside vending company for the production of its discoverable ESI. While the Court is not happy about the delay in producing the discoverable ESI, it does not appear that Plaintiffs will be prejudiced by this

delay. Accordingly, Plaintiffs' request to compel production of ESI in seven days is **DENIED** and WRG's request for an extension of time is **GRANTED**. WRG is permitted to produce non-privileged ESI responsive to Plaintiff's First Request for Production of Documents and ESI on or before **May 23, 2008**. No additional requests for an extension of time will be granted.

So **ORDERED** this 2nd day of May, 2008.

BY THE COURT:

s/Terrence F. McVerry
United States District Court Judge

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